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Letter dated 24 July 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Norway submitted pursuant to resolution 1624 (2005) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 19 July 2006 from the Permanent Representative of Norway to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

Reference is made to your letter of 15 July 2006 regarding additional measures to combat terrorism.

I have the honour to transmit to the Chairman the enclosed information on Norway's implementation of the provisions of resolution 1624 (2005) (see enclosure).

(*Signed*) Johan Ludvik **Løvald**
Ambassador
Permanent Mission of Norway to the United Nations

Enclosure

Report to the Counter-Terrorism Committee on the implementation of Security Council resolution 1624 (2005)

Introduction

This report is prepared in accordance with the questions contained in the letter of 15 May 2006 from the Chairman of the Counter-Terrorism Committee to the Permanent Representative of Norway to the United Nations.

Paragraph 1

1.1

What measures does Norway have in place to prohibit by law and prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

If a person commits a terrorist act, he/she is liable to imprisonment for a term not exceeding 21 years pursuant to section 147a of the General Civil Penal Code (Act of 22 May 1902 No. 10 and hereinafter referred to as the Penal Code). Aiding and abetting such an offence is also prohibited and punishable. This appears from the sections referred to in section 147a.

According to well established Norwegian law, incitement is prohibited. Norway is, however, considering a new provision that explicitly prohibits incitement to commit a terrorist act. The Ministry of Justice is currently working on a proposal for this provision, which will be circulated within the relevant ministries and directorates for comments shortly.

A person who urges or incites the main perpetrator to carry out a criminal act is liable for aiding and abetting thereto if the urging or incitement affects the main perpetrators' intention to commit the criminal act. The prerequisite to consider an incitement to have the necessary motivating effect is not very strict.

If a terrorist act is not completed, but an incitement to commit this act is made, this may constitute a punishable attempt to accomplishment, or give rise to liability pursuant to section 140 of the Penal Code. According to section 140 a person who publicly urges or incites the commission of a criminal act, or aids and abets hereto, shall be liable to fines or to detention or to imprisonment for a term not exceeding eight years.

1.2

What measures does Norway take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

Any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they are guilty of incitement to commit a terrorist act or acts will be denied safe haven. This is regulated in chapter five of the Immigration Act.

The legal basis for extradition from Norway is Act No. 39 of 13 June 1975 relating to Extradition of Offenders (the Extradition Act).

Extradition from Norway is not conditioned by a bilateral or multilateral extradition agreement. Nevertheless, Norway has entered into multilateral extradition agreements such as the European Convention on Extradition of 13 December 1957, its Additional Protocol of 15 October 1975, the Second Additional Protocol of 17 March 1978 and the Schengen Convention of 19 June 1990. Norway has also entered into bilateral extradition agreements with the USA as of 9 June 1977 and Australia as of 9 September 1985.

Other conventions ratified by Norway containing provisions on extradition are also applicable, for instance the UN conventions on drugs and on transnational organized crime.

According to the Extradition Act, the request for extradition must fulfil several legal requirements:

- The person in question must be accused, indicted or convicted of a punishable offence in the requesting state (Extradition Act Section 1). The offence must also be punishable by Norwegian law (dual criminality) with a minimum penalty threshold of imprisonment for more than one year (Section 3). If the person against whom extradition is requested is convicted for the offence, extradition may take place only if the judgement involves deprivation of liberty or committal to an institution, for a period of at least 4 months.
- Norwegian nationals may not be extradited (Section 2).
- Extradition may not take place for political offences (Section 5).
- Extradition for military offences may only take place if the offence also would be punishable with imprisonment for more than one year in accordance with non-military penal legislation (Section 4).
- Extradition is prohibited if it may be assumed that there is a grave danger that the person concerned, for reasons of race, religion, nationality, political convictions or other political circumstances, will be exposed to persecution directed against his life or liberty, or that the said persecution is otherwise of a serious nature (Section 6). This provision must be interpreted in light of international conventions Norway has ratified.
- According to Section 7, extradition may not take place if it would be contrary to fundamental humanitarian considerations, especially on account of the person's age, condition of health or other circumstances of personal nature.
- Extradition may also be refused on the basis of the principle of non bis in idem, see Section 8.
- Extradition may not take place if prosecution or enforcement of the penalty under Norwegian law is barred by lapse of time (Section 9).
- According to the Extradition Act Section 10, extradition will be refused if it is not found that there is just and sufficient cause for suspecting the person concerned being guilty.

- Section 12 paragraph 1 stipulates a list of compulsory conditions in respect of extradition. The same section paragraph 2 expresses that further conditions as may be deemed necessary may be stipulated.

There are several bars to extradition based on Norway's international commitments. According to the Norwegian Constitution Section 110 c, it is the responsibility of the authorities of the State to respect and ensure human rights. The Human Rights Act of 21 May 1999 incorporates inter alia the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, Protocol no. 6 of 28 April 1983 on the Abolition of the Death Penalty, the UN International Covenant on Civil and Political rights of 16 December and the UN International Covenant on Economic, Social and Cultural of 16 December 1966 rights in Norwegian law. These conventions will have the force of Norwegian law.

Norway has also ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 and the UN Convention relating to the Status of Refugees of 28 July 1951. As will appear from the above-mentioned, the Norwegian authorities will not extradite a person if it would involve a breach of fundamental human rights or public order.

In practice this means that any foreign national is protected against being sent out of Norway if his/her life is threatened or if he/she faces a risk of inhumane treatment.

Paragraph 2

1.3

How does Norway cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?

Norway co-operates with other States through the Schengen cooperation agreement regarding the control of the external borders of the Schengen area. The cooperation is institutionalised through the Schengen Acquis. Norway is also taking part in and utilizing the services provided by Frontex (European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union).

The Police conducting border control at all Norwegian border crossing points have access to the Schengen Information System and will soon have online access to Interpol alerts via the Internet 24/7. Thereby, alerts on wanted persons and stolen travel documents are communicated to our border crossing points.

The National Police Immigration Service carries out extensive investigation on identity of asylum seekers prior to issuance of identity documents in order to establish their true identity. This includes routine searches on fingerprints in the Eurodac system.

Norway is also a member of the Baltic Sea Region Border Control Cooperation, which is an important supplement to member States' control and surveillance of the maritime borders. Joint activities and cooperation have strengthened our relations, promoted networking, and helped us reach a mutual approach to prioritization and coordination of actions against international terrorism and other types of cross-border crime, such as illegal migration, smuggling, money laundering, trafficking in narcotic drugs, vehicles, weapons and ammunition, and environmental crime.

The importance of close cooperation between police, customs and border control authorities has been emphasised throughout meetings and maritime exercises and operations. One prioritised tool of communication is Coastnet. Coastnet and Weekly Situation Reports are important tools for exchanging information in the Baltic Sea Region.

Paragraph 3

1.4

What international efforts is Norway participating in or considering participating in initiating in order to enhance dialogue and broaden understanding among civilizations in an effort to prevent the indiscriminate targeting of different religions and cultures?

Norway has promoted dialogue between ethnic and religious groups for a number of years through different bilateral projects. We regard intercultural and inter-religious dialogue as one of several means of promoting tolerance between ethnic and religious groups in a number of countries where terrorism is rife. The reactions to the Muhammad cartoons showed how important cultural understanding and dialogue are to prevent conflicts based on religious divisions.

Norway played an important part in ensuring that intercultural and inter-religious dialogue figure prominently in the Council of Europe's action plan of May 2005. We will continue these efforts by seeking to ensure that the measures set out in the plan are followed up – including those related to the school system and exchanges, and to cooperation and dialogue with religious organisations. Norway also supports the United Nations Educational, Scientific and Cultural Organisation's efforts to combat international terrorism. Universal access to education is a crucial element here. Another aspect is how education can help to overcome ethnic and religious differences.

Norway will continue its intercultural and inter-religious dialogue as a key foreign policy tool and an element in Norway's efforts to prevent international terrorism. In these efforts, the Norwegian authorities maintain close contact with organisations and institutions that promote dialogue and tolerance on a daily basis. January 2006 the Norwegian Ministry of Foreign Affairs formally established a working group on "Religion and Foreign Policy" with the aim to advise the ministry in foreign policy areas related to religion.

1.5

What steps is Norway taking to counter incitement of terrorist acts motivated by extremism and intolerance and prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?

The Penal Code section 135 a attaches criminal liability to any person who willfully or through gross negligence publicly utters a discriminatory or hateful expression. The penalty may either be fines or imprisonment for a term not exceeding three years. An expression that is uttered in such a way that it is likely to reach a large number of persons shall be deemed equivalent to a publicly uttered expression. The use of symbols shall also be deemed to be an expression. Any person who aids and abets such an offence shall be liable to the same penalty. A discriminatory or hateful expression here means threatening or insulting anyone, or inciting hatred or persecution of or contempt for anyone because or his or her skin colour or national or ethnic origin, religion or life stance, or homosexuality, lifestyle or orientation.

Section 135 a has to be interpreted with due diligence to the freedom of expression, compare section 100 of the Norwegian Constitution and the International Covenant on Civil and Political Rights, article 19 second paragraph, and the Convention for the Protection of Human Rights and Fundamental Freedoms, article 10. The mentioned conventions are implemented through The Human Rights Act (of 21 May 1999), compare section 2.

Paragraph 4

1.6

What is Norway doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations under international law, in particular human rights law, refugee law, and humanitarian law?

Norway is fully committed to ensuring that measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all obligations under international law.

Human rights founded on international law are given a strong position under Norwegian law. Norway has incorporated the Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms, the International Covenant of 16 December 1966 on Economic, Social and Cultural Rights and the International Covenant of 16 December 1966 on Civil and Political Rights into domestic law, compare the Human Rights Act, section 2.

The provisions of the conventions and protocols are given precedence over any other legislative provisions that conflict them, compare the Human Rights Act, section 3. Additionally, some statutes contain provisions saying that the statute shall apply subject to such limitations as derived from any agreement with a foreign State or from international law generally. Further to this, it is a general legal principle that all Norwegian legislation shall be interpreted in conformity with our obligations under international law.